

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

In Re:

CASE NO: 24-90533 (ARP)
CHAPTER 11
(JOINTLY ADMINISTERED)

WELLPATH HOLDINGS, INC., *et. al.*,
Debtors.

CLAIMANTS' GRACIENNE MYERS' and DANIEL MYERS'
OBJECTION TO ENTRY OF A FINAL ORDER ON DEBTORS' EMERGENCY
MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS TO ENFORCE THE
AUTOMATIC STAY OR IN THE ALTERNATIVE EXTEND THE AUTOMATIC STAY
TO NON-DEBTOR and DEBTOR DEFENDANTS

Gracienne Myers and Daniel Myers, (hereinafter collectively referred to as "Claimant's"), by and through their undersigned counsel, hereby file *Claimants' Gracienne Myers and Daniel Myers Objection to Entry of a Final Order on Debtors' Emergency Motion for Entry of Interim and Final Orders to Enforce the Automatic Stay or in the Alternative Extend the Automatic Stay to Non-Debtor Defendants*, ("Objection"), respectfully set forth and show:

1. Claimants' pre-petition state court action against non-debtor, TB Isle Resort, L.P., and related debtor 901 45TH STREET WEST PALM BEACH FLORIDA BEHAVIORAL HEALTH HOSPITAL COMPANY, LLC, ("Debtor"), and, its employee, TARIKA WYNDS, ("Wynds") should be excluded from this Court's Final Order because:

(a) TB Isle Resort, L.P. is an insured non-debtor, completely unaffiliated with the debtor and related debtors;

(b) 901 45TH STREET WEST PALM BEACH FLORIDA BEHAVIORAL HEALTH HOSPITAL COMPANY, LLC, ("Debtor"), and, its employee, TARIKA WYNDS, ("Wynds") are insured for the incident alleged in Claimant's pre-petition law suit for damages, legal defense costs and attorney's fees; and

© the pre-petition lawsuit will serve to liquidate by a jury trial the amount of

Claimants' damages in the event a claim against the debtor in this bankruptcy becomes necessary

2. Claimants file this Objection to the entry of a final order on the *Debtors' Emergency Motion for Entry of Interim and Final Orders to Enforce the Automatic Stay or in the Alternative Extend the Automatic Stay to Non-Debtor Defendants*, [ECF #17], ("Stay Extend Motion"). This Objection is filed per the dictates contained in the *Amended Interim Order Enforcing the Automatic Stay*, [ECF #69], ("Stay Extend Order").

3. Pending before the Court is *Claimants Gracienne Myers and Daniel Myers Motion for Relief From Automatic Stay to Allow Insurance Covered Liability Action to Proceed*, [ECF #181], ("Stay Relief Motion"). The Stay Relief Motion is incorporated herein by reference and made a part hereof.

4. The Stay Relief Motion summarizes the pre-petition state court action against the non-debtor and the debtor:

- a. In 2023, Claimants sued non-debtor, TB Isle Resort, LLP, for the traumatic brain injury GRACIENNE MYERS suffered from the defendants negligence. The suit was filed in Miami-Dade Circuit Court, in and for the State of Florida *Gracienne Myers and Daniel Myers vs TB Isle Resort LP*, Case No.: 2023-24472 CA 01, ("State Court Action"). A true copy of the *Amended Complaint* filed in the State Court Action is attached to this Objection as Exhibit "A" and made a part hereof.
- b. On October 1, 2024, 901 45TH STREET WEST PALM BEACH FLORIDA BEHAVIORAL HEALTH HOSPITAL COMPANY, LLC, ("Debtor"), and, its employee, TARIKA WYNDS, ("Wynds"), were joined in the State Court Action based on their negligence when Claimant GRACIENNE MYERS came under their care for her psychosis from the traumatic brain injury, and she ended up being a victim of a sexual assault from another patient in Debtor's care.
- c. Claimant, DANIEL MYERS, sued the Debtor and Wynds in the State Court Action for contracting the sexually transmitted disease which Debtor falsely advised him his wife had not contracted.

Stay Relief Motion at *2.

5. Unlike the basis for stay argued by the Debtors in their Stay Extend Motion, which resulted in the entry of the Interim Stay Extend Order, Claimants claims against the non-debtor and the debtor do not "involve issues concerning the quality of medical care provided to

incarcerated individuals.” Nor does Claimants’ lawsuit involve “...derivative theories of liability...” See Stay Extend Motion.

6. Claimants Meyers’ request that the bankruptcy automatic stay be lifted with regard to non-debtor TB Isle Resort, LP and as to 901 45TH STREET WEST PALM BEACH FLORIDA BEHAVIORAL HEALTH HOSPITAL COMPANY, LLC, (“Debtor”), and, its employee, TARIKA WYNDS, (“Wynds”).

7. As concerns TB Isle Resort, LP, the State Court Action is based on premises liability negligence involving the failure of TB Isle Resort, LP to provide a reasonably safe environment for persons, such as invitee Claimant Gracienne Myers. TB Ilse Resort, LP, is fully insured and is not a debtor. As such, there is no basis to continue the automatic stay to protect TB Isle Resort, LP. Moreover, counsel for the debtor has no objection to vacating the stay as it relates to TB Isle Resort, LP.

8. With respect to related debtors 901 45TH STREET WEST PALM BEACH FLORIDA BEHAVIORAL HEALTH HOSPITAL COMPANY, LLC, (“Debtor”), and, its employee, TARIKA WYNDS, (“Wynds”), as ECF 181 establishes, both are insured with limits of \$3,000,000 per claimant for damages and the policy provides for defense legal fees and costs. The State Court action will serve to liquidate the amount of Claimants’ claim, in the event it exceeds the available \$6,000,000 in primary insurance coverage.

9. State court hearings in the action are scheduled December 11, 2024 and December 13, 2024 involving fully briefed pre-petition motions filed by the related debtors. Although Claimants’ have a hearing set on their motion for relief from stay, DE 181, on December 19, 2024, Claimants’ submit that issues of judicial economy indicate this Court should grant relief from the stay as to the related debtors at the December 5, 2024 hearing on this objection so that the state court hearings may proceed as scheduled.

WHEREFORE, Claimants respectfully pray that this Court sustain this Objection, and

exclude from the entry of any final order on the Stay Extend Motion, the continued extension of the automatic stay as it relates to the State Court Action commenced by Claimants against TB Isle Resort, LLP, and the related debtors 901 45TH STREET WEST PALM BEACH FLORIDA BEHAVIORAL HEALTH HOSPITAL COMPANY, LLC, (“Debtor”), and, its employee, TARIKA WYNDS, (“Wynds”), and for such other and further relief as the Court may deem just and proper under the circumstances.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 1, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, and that the foregoing document is being served this day on all counsel of record or pro se parties authorized manner for those counsel or parties who are authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted,

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